

#5870  
MEXICO

## UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

Peter M. Robinson  
President & CEO

November 16, 2009

NSD/CES/REGISTRATION  
UNIT

2009 NOV 17 AM 11:48

The Honorable Hillary Rodham Clinton  
Secretary of State  
U.S. Department of State  
Harry S. Truman Bldg  
2201 C St., NW  
Washington, DC 20520-0001

Via Fax: 202-647-2283

Dear Madam Secretary,

I am writing on behalf of the United States Council for International Business (USCIB) to support the request of Senators Leahy, Kerry, Feingold, Cardin, and Franken that you provide the Congress the Administration's recommendations on how to bring the U.S. into compliance with a decision of the International Court of Justice (ICJ) concerning the access of foreign consular officers to their nationals detained under U.S. law.

The Vienna Convention on Consular Relations, a treaty ratified by the U.S. and therefore part of U.S. law, ensures the rights: (1) of foreign nationals to consular assistance without delay, and (2) of consulates to assist their citizens abroad. The U.S. is currently in violation of its international treaty obligations in the case of certain Mexican nationals. The ICJ has determined that the U.S. can remedy these violations by granting judicial hearings to determine whether prejudice resulted from the failure to provide consular access to the Mexican nationals in the *Case Concerning Aventura and Other Mexican Nationals*.

As former State Department Legal Advisor John Bellinger III pointed out in a July opinion article in the New York Times, the Bush Administration took the position that it was legally obligated to follow the ICJ's decision and ordered state courts to take such action.

However, as Mr. Bellinger points out:

"... Texas challenged the President's order, and in March 2008, the Supreme Court sided with Texas. Chief Justice John Roberts acknowledged America's obligation to comply with the international court's decisions, but held that the President lacked inherent constitutional authority to supersede state criminal laws limiting appeals and that Congress had never enacted legislation authorizing him to do so."

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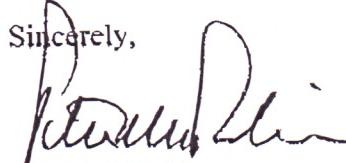
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Additional information is on file with the Government of Justice Washington, D.C.

The security of Americans doing business abroad is clearly and directly at risk by U.S. noncompliance with its obligations under the Vienna Convention. As recent history has shown, American citizens abroad are at times detained by oppressive or undemocratic regimes, and access to American consular officers may be their lifeline. The U.S. rightly insists that other countries grant American citizens the right to consular access. Overseas employees of the U.S. business community as well as all other Americans traveling or living abroad need this vital safety net. As it stands now, U.S. citizens abroad are at grave risk that other countries may not honor their reciprocal obligations.

We urge the Department of State to recommend to the Congress passage of legislation to bring the U.S. into compliance with the Vienna Convention. The inconvenience to our federal courts of granting judicial review to the Mexican nationals in the *Avena* case and others is minor in comparison to the very real threat to the security of American businessmen and other U.S. citizens if no action is taken.

USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and prudent regulation. Its members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. With a unique global network encompassing leading international business organizations, USCIB provides business views to policy makers and regulatory authorities worldwide, and works to facilitate international trade and investment.

I have sent an identical letter to the Attorney General.

Sincerely,  
  
Peter M. Robinson



## UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

Peter M. Robinson  
President & CEO

November 16, 2009

The Honorable Eric H. Holder Jr.  
Attorney General  
U.S. Department of Justice  
Robert F. Kennedy Building  
950 Pennsylvania Avenue, NW  
Room 5111  
Washington, DC 20530

Via Fax: 202-307-6777

Dear Attorney General Holder:

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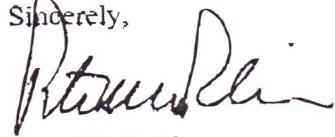
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